

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**JACOB SMITH,
Plaintiff,**

v.

**Case No. 2:20-cv-3755
JUDGE EDMUND A. SARGUS, JR.
Magistrate Judge Kimberly A. Jolson**

**FIRSTENERGY CORP. AND
FIRSTENERGY SERVICE CO.,
Defendants.**

**BRIAN HUDOCK AND CAMEO
COUTERTOPS, INC.,
Plaintiff,**

v.

**Case No. 2:20-cv-3954
JUDGE EDMUND A. SARGUS, JR.
Magistrate Judge Kimberly A. Jolson**

**FIRSTENERGY CORP., et al.,
Defendants,**

**JAMES BULDAS,
Plaintiff,**

v.

**Lead Case No. 2:20-cv-3987
JUDGE EDMUND A. SARGUS, JR.
Magistrate Judge Kimberly A. Jolson**

**FIRSTENERGY CORP., et al.,
Defendants.**

OPINION AND ORDER

This matter is before the Court on the Motion of Defendant FirstEnergy Solutions Corp. N/K/A Energy Harbor Corp. (“Energy Harbor”) for an Order (A) Vacating November 23, 2021 Scheduling Order and (B) Scheduling A Status Conference. (ECF No. 95.) In that Motion, Energy Harbor claims that this Court’s Scheduling Order regarding class certification is written

so that it applies to all defendants, not just the original defendants. This Court disagrees. Energy Harbor was joined fourteen months after this case was filed and has not yet had the opportunity to answer. This case, however, was filed on July 27, 2020. The motion for class certification, filed against the other defendants, was filed on June 28, 2021. The motion for class certification is not directed at Energy Harbor, but only the original defendants.

Plaintiff moved to amend the Complaint on September 27, 2021. As to the proposed class action, the only material amendment was the addition of Energy Harbor as a new defendant. Energy Harbor became a defendant in this case on November 12, 2021.

Energy Harbor suggests that this Court should not proceed with the class certification briefing on a motion that is not directed at Energy Harbor because it would be prejudiced. This Court disagrees. Plaintiffs have not moved to include Energy Harbor in a class and, if they do, Energy Harbor will be permitted all the process it is due with regard to discovery and briefing so that it can sufficiently oppose the motion.

Consequently, the Court **DENIES** Energy Harbor's motion. (ECF No. 95.)

IT IS SO ORDERED.

DATE

EDMUND A. SARGUS, JR.
UNITED STATES DISTRICT JUDGE